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**HOUSE BILL NO. 155**

Offered January 10, 1996

*A BILL to amend and reenact §§ 16.1-253, 16.1-253.1, 16.1-253.2, 16.1-279.1, 18.2-60.3, 18.2-308.1:4 and 20-103 of the Code of Virginia; §§ 16.1-296 and 16.1-298 of the Code of Virginia as they are currently effective; § 16.1-296.2 of the Code of Virginia as it may become effective; and §§ 16.1-228, 16.1-243, 16.1-245.1, 16.1-253.4 and 16.1-278.14 of the Code of Virginia, as they are currently effective and as they may become effective, relating to protective orders; penalty.*

Patrons—Puller, Almand, Barlow, Christian, Connally, Cooper, Cranwell, Crittenden, Cunningham, Darner, Davies, Deeds, Dillard, Keating, Melvin, Moran, Phillips, Plum, Reid, Scott, Shuler and Van Landingham

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-253, 16.1-253.1, 16.1-253.2, 16.1-279.1, 18.2-60.3, 18.2-308.1:4 and 20-103 of the Code of Virginia; §§ 16.1-296 and 16.1-298 of the Code of Virginia as they are currently effective; § 16.1-296.2 of the Code of Virginia as it may become effective; and §§ 16.1-228, 16.1-243, 16.2-245.1, .1-253.4 and 16.1-278.14 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted as follows:**

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person eighteen years of age or older.

"Child," "juvenile" or "minor" means a person less than eighteen years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of

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60 any and all educational services and programs that are required to be provided by law and which meet  
61 the child's particular educational needs, and (ii) the school system from which the child is absent or  
62 other appropriate agency has made a reasonable effort to effect the child's regular attendance without  
63 success; or

64 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or  
65 placement authority, remains away from or habitually deserts or abandons his family or lawful custodian  
66 or escapes or remains away without proper authority from a residential care facility in which he has  
67 been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life  
68 or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently  
69 being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation  
70 or services needed by the child or his family.

71 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile  
72 and domestic relations district court of each county or city.

73 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an  
74 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of  
75 § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an  
76 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if  
77 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to  
78 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or  
79 town.

80 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed  
81 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has  
82 been terminated under the provisions of § 16.1-269.6.

83 "Department" means the Department of Youth and Family Services and "Director" means the  
84 administrative head in charge thereof or such of his assistants and subordinates as are designated by him  
85 to discharge the duties imposed upon him under this law.

86 "Family abuse" means any act of violence, including any forceful detention, which results in physical  
87 injury or places one in reasonable apprehension of serious bodily injury and which is committed by a  
88 person against such person's family or household member.

89 "Family or household member" means (i) ~~whether or not he or she resides in the same home with~~  
90 ~~the person, the person's spouse, whether or not he or she resides in the same home with the person, (ii)~~  
91 ~~the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the~~  
92 ~~person's parents, stepparents, children, stepchildren, brothers, sisters, grandparents and , grandchildren~~  
93 ~~who reside in the same home with the person, (iv) the person's , mother-in-law, father-in-law,~~  
94 ~~sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the~~  
95 ~~person, (v) ; (ii) any individual who has a child in common with the person, whether or not the person~~  
96 ~~and that individual have been married or have resided together at any time, or (vi) ; and (iii) any~~  
97 ~~individual who cohabits or who, within the previous twelve months, cohabited with the person, and any~~  
98 ~~children of either of them then residing in the same home with the person.~~

99 "Foster care services" means the provision of a full range of casework, treatment and community  
100 services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 or  
101 in need of services as defined in this section and his family when the child (i) has been identified as  
102 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
103 an agreement between the local board of social services or a public agency designated by the  
104 community policy and management team and the parents or guardians where legal custody remains with  
105 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or  
106 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board  
107 pursuant to § 16.1-293.

108 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this  
109 chapter.

110 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional  
111 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding  
112 cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the  
113 transfer of a child to a juvenile facility.

114 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district  
115 court of each county or city.

116 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in  
117 this chapter.

118 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to  
119 have physical custody of the child, to determine and redetermine where and with whom he shall live,  
120 the right and duty to protect, train and discipline him and to provide him with food, shelter, education  
121 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal

status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Secure facility" or "detention home" means a local or regional public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Youth and Family Services.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

§ 16.1-228. (Delayed effective date) Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person eighteen years of age or older.

"Child," "juvenile" or "minor" means a person less than eighteen years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet

183 the child's particular educational needs, and (ii) the school system from which the child is absent or  
184 other appropriate agency has made a reasonable effort to effect the child's regular attendance without  
185 success; or

186 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or  
187 placement authority, remains away from or habitually deserts or abandons his family or lawful custodian  
188 or escapes or remains away without proper authority from a residential care facility in which he has  
189 been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life  
190 or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently  
191 being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation  
192 or services needed by the child or his family.

193 "The court" or the "family court" means the family court of each county or city.

194 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an  
195 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of  
196 § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an  
197 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if  
198 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to  
199 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or  
200 town.

201 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed  
202 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the family court has  
203 been terminated under the provisions of § 16.1-269.6.

204 "Department" means the Department of Youth and Family Services and "Director" means the  
205 administrative head in charge thereof or such of his assistants and subordinates as are designated by him  
206 to discharge the duties imposed upon him under this law.

207 "Family abuse" means any act of violence, including any forceful detention, which results in physical  
208 injury or places one in reasonable apprehension of serious bodily injury and which is committed by a  
209 person against such person's family or household member.

210 "Family or household member" means (i) *whether or not he or she resides in the same home with*  
211 *the person*, the person's spouse, ~~whether or not he or she resides in the same home with the person~~, (ii)  
212 ~~the person's former spouse, whether or not he or she resides in the same home with the person~~, (iii) the  
213 ~~person's parents, stepparents, children, stepchildren, brothers, sisters, grandparents and , grandchildren,~~  
214 ~~who reside in the same home with the person~~, (iv) the person's mother-in-law, father-in-law, sons-in-law,  
215 daughters-in-law, brothers-in-law and sisters-in-law ~~who reside in the same home with the person~~, (v) ;  
216 (ii) any individual who has a child in common with the person, whether or not the person and that  
217 individual have been married or have resided together at any time; ~~or (vi) ;~~ and (iii) any individual who  
218 cohabits or who, within the previous twelve months, cohabited with the person, and any children of  
219 either of them residing in the same home with the person.

220 "Foster care services" means the provision of a full range of casework, treatment and community  
221 services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 or  
222 in need of services as defined in this section and his family when the child (i) has been identified as  
223 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
224 an agreement between the local board of social services or a public agency designated by the  
225 community policy and management team and the parents or guardians where legal custody remains with  
226 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or  
227 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board  
228 pursuant to § 16.1-293.

229 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this  
230 chapter.

231 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional  
232 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding  
233 cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the  
234 transfer of a child to a juvenile facility.

235 "The judge" means the judge or the substitute judge of the family court of each county or city.

236 "This law" or "the law" means the Family Court Law embraced in this chapter.

237 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to  
238 have physical custody of the child, to determine and redetermine where and with whom he shall live,  
239 the right and duty to protect, train and discipline him and to provide him with food, shelter, education  
240 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal  
241 status created by court order of joint custody as defined in § 20-107.2.

242 "Permanent foster care placement" means the place of residence in which a child resides and in  
243 which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation  
244 and agreement between the placing agency and the place of permanent foster care that the child shall

remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Secure facility" or "detention home" means a local or regional public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

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"State Board" means the State Board of Youth and Family Services.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

§ 16.1-243. Venue.

A. Original venue:

1. Cases involving children, other than support *or where protective order issued*: Proceedings with respect to children under this law, except support proceedings *or as provided in subdivision 3 of this subsection*, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241 and 63.1-220.3, be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside; and

d. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. ~~Spousal~~ Family abuse: Proceedings in which an order of protection is sought as a result of ~~spousal~~ family abuse shall be commenced where (i) either party has his or her principal residence ~~or where~~ (ii) the abuse occurred *or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family member of the petitioner,* ;

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is

the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. The transferor court may, in its discretion, retain such copies as it deems appropriate.

§ 16.1-243. (Delayed effective date) Venue.

A. Original venue:

1. Cases involving children, other than support *or where protective order issued*: Proceedings with respect to children under this law, except support proceedings *or as provided in subdivision 3 of this subsection*, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241 and 63.1-220.3, be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside; and

d. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. ~~Spousal~~ Family abuse: Proceedings in which an order of protection is sought as a result of ~~spousal~~ family abuse shall be commenced where (i) either party has his or her principal residence ~~or where~~, (ii) the abuse occurred *or* (iii) a protective order was issued *if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family member of the petitioner*.

4. Divorce, annulment, affirmation, separate maintenance or equitable distribution: Suits for divorce, annulment or affirmation of marriage, separate maintenance or equitable distribution based on a foreign

decree shall be governed by Chapter 5 (§ 8.01-257 et seq.) of Title 8.01.

5. Adoption: Proceedings for adoption shall be governed by §§ 63.1-221 and 63.1-222.

6. Emancipation: Proceedings for emancipation shall be governed by § 16.1-331.

7. Injunction: Proceedings to award an injunction shall be governed by Chapter 5 (§ 8.01-257 et seq.) of Title 8.01.

8. Change of name: Proceedings to change a name shall be governed by § 8.01-217.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own initiative or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any family court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

6. Transfer of venue in suits for divorce, annulment or affirmation of marriage, separate maintenance, or equitable distribution based on a foreign decree, or to award an injunction shall be governed by Chapter 5 (§ 8.01-257 et seq.) of Title 8.01 as these provisions relate to circuit court.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. The transferor court may, in its discretion, retain such copies as it deems appropriate.

§ 16.1-245.1. Medical evidence admissible in juvenile and domestic relations district court.

In any civil case heard in a juvenile and domestic relations district court involving allegations of child abuse or neglect or ~~spousal~~ family abuse, any party may present evidence, by a report from the treating or examining health care provider as defined in § 8.01-581.1 or the records of a hospital or medical facility at which the treatment or examination was performed, or both, as to the extent, nature, and treatment of any physical condition or injury suffered by a person and the examination of the person.

A medical report shall be admitted if the party intending to present such evidence at trial or hearing gives the opposing party or parties a copy of the evidence and written notice of intention to present it at least ten days, or in the case of a preliminary removal hearing under § 16.1-252 or § 16.1-253.1 at least twenty-four hours, prior to the trial or hearing and if attached to such evidence is a sworn statement of the treating or examining health care provider who made the report that (i) the information contained therein is true, accurate, and fully describes the nature and extent of the physical condition or injury and (ii) the patient named therein was the person treated or examined by such health care provider.

A hospital or other medical facility record shall be admitted if attached to it is a sworn statement of the custodian thereof that the same is a true and accurate copy of the record of such hospital or other medical facility. If thereafter a party summons the health care provider or custodian making such statement to testify in proper person or by deposition taken de bene esse, the court shall determine

429 which party shall pay the fees and costs for such appearance or depositions, or may apportion the same  
430 among the parties in such proportion as the ends of justice may require. If such health care provider or  
431 custodian is not subject to subpoena for cross-examination in court or by a deposition de bene esse, then  
432 the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care  
433 provider or custodian to obtain his testimony as the ends of justice may require.

434 § 16.1-245.1. (Delayed effective date) Medical evidence admissible in family court.

435 In any civil case heard in a family court involving allegations of child abuse or neglect or ~~spousal~~  
436 *family* abuse, any party may present evidence, by a report from the treating or examining health care  
437 provider as defined in § 8.01-581.1 or the records of a hospital or medical facility at which the treatment  
438 or examination was performed, or both, as to the extent, nature, and treatment of any physical condition  
439 or injury suffered by a person and the examination of the person.

440 A medical report shall be admitted if the party intending to present such evidence at trial or hearing  
441 gives the opposing party or parties a copy of the evidence and written notice of intention to present it at  
442 least ten days, or in the case of a preliminary removal hearing under § 16.1-252 or § 16.1-253.1 at least  
443 twenty-four hours, prior to the trial or hearing and if attached to such evidence is a sworn statement of  
444 the treating or examining health care provider who made the report that (i) the information contained  
445 therein is true, accurate, and fully describes the nature and extent of the physical condition or injury and  
446 (ii) the patient named therein was the person treated or examined by such health care provider.

447 A hospital or other medical facility record shall be admitted if attached to it is a sworn statement of  
448 the custodian thereof that the same is a true and accurate copy of the record of such hospital or other  
449 medical facility. If thereafter a party summons the health care provider or custodian making such  
450 statement to testify in proper person or by deposition taken de bene esse, the court shall determine  
451 which party shall pay the fees and costs for such appearance or depositions, or may apportion the same  
452 among the parties in such proportion as the ends of justice may require. If such health care provider or  
453 custodian is not subject to subpoena for cross-examination in court or by a deposition de bene esse, then  
454 the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care  
455 provider or custodian to obtain his testimony as the ends of justice may require.

456 § 16.1-253. Preliminary protective order.

457 A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary  
458 protective order, after a hearing, if necessary to protect a child's life, health or normal development  
459 pending the final determination of a petition filed under this law. ~~Such~~ *The* order may require a child's  
460 parents, guardian, legal custodian, other person standing in loco parentis or other adult occupant of the  
461 dwelling to observe reasonable conditions of behavior for a specified length of time. These conditions  
462 shall include any one or more of the following:

463 1. To abstain from offensive conduct against the child ~~or against the other parent~~, *a family or*  
464 *household member of the child* or ~~against~~ any person to whom custody of the child is awarded;

465 2. To cooperate in the provision of reasonable services or programs designed to protect the child's  
466 life, health or normal development;

467 3. To allow persons named by the court to come into the child's home at reasonable times designated  
468 by the court to visit the child or inspect the fitness of the home and to determine the physical or  
469 emotional health of the child;

470 4. To allow visitation with the child by persons entitled thereto, as determined by the court;

471 5. To refrain from acts of commission or omission which tend to endanger the child's life, health or  
472 normal development; or

473 6. To refrain from such contact with the child *or family or household members of the child*, as the  
474 court may deem appropriate, including removal of such person from the residence of the child.  
475 However, prior to the issuance by the court of an order removing such person from the residence of the  
476 child, the petitioner must prove by a preponderance of the evidence that such person's probable future  
477 conduct would constitute a danger to the life or health of such child, and that there are no less drastic  
478 alternatives which could reasonably and adequately protect the child's life or health pending a final  
479 determination on the petition.

480 B. A preliminary protective order may be issued ex parte upon a petition supported by an affidavit or  
481 by sworn testimony in person before the judge or intake officer which establishes that the child would  
482 be subjected to an imminent threat to life or health to the extent that delay for the provision of an  
483 adversary hearing would be likely to result in serious or irreparable injury to the child's life or health;  
484 ~~however, following.~~ *Following* the issuance of an ex parte order the court shall provide an adversary  
485 hearing to the affected parties within the shortest practicable time not to exceed five business days after  
486 the issuance of the order.

487 C. Prior to the hearing required by this section, notice of the hearing shall be given at least  
488 twenty-four hours in advance of the hearing to the guardian ad litem for the child, to the parents,  
489 guardian, legal custodian, *or* other person standing in loco parentis of the child ~~or, to any~~ other adult  
490 occupant of the dwelling *to whom the protective order may be directed* and to the child if he or she is



twelve years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.

D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

E. At the hearing the child ~~and~~, his or her parents, guardian, legal custodian, ~~or~~ other person standing in loco parentis ~~or~~ *and any other adult occupant of the dwelling to whom notice was given* shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

F. Nothing in this section enables the court to remove a child from the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis, and no order hereunder shall be entered against a person over whom the court ~~is~~ *does not given have* jurisdiction as ~~provided in subdivision F of § 16.1-241.~~

§ 16.1-253.1. Preliminary protective orders in cases of family abuse.

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary *protective order of protection* against an allegedly abusing person in order to protect the health and safety of the petitioner *or any family or household member of the petitioner.* ~~Such~~ The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of family abuse *or evidence sufficient to establish probable cause that family abuse has occurred* shall constitute good cause ~~under this section.~~

*Whenever a warrant for a violation of § 18.2-57.2 is issued, the judge or magistrate shall issue a preliminary protective order as provided in this section.*

A preliminary *protective order of protection* may include any one or more of the following conditions to be imposed on the ~~allegedly abusing person~~ *respondent*:

1. ~~Prohibition of further~~ *Prohibiting* acts of family abuse.
2. ~~Prohibition of such other contacts between the parties as the court deems appropriate.~~
3. ~~Prohibition of Prohibiting~~ such other contacts ~~with the allegedly abused~~ *by the respondent with the petitioner or any family or household member of the petitioner* as the court deems necessary to protect the safety of such persons.

43. Granting the petitioner possession of the ~~residence~~ *premises* occupied by the parties to the exclusion of the ~~allegedly abusing person~~ *respondent*; however, no such grant of possession shall affect title to any real or personal property.

4. *Granting the petitioner possession or use of a motor vehicle owned by the parties or solely by the respondent, to the exclusion of the respondent; the court may require that during the term of the order the respondent shall be solely responsible for compliance with the requirements of the laws of this Commonwealth governing insurance for motor vehicles; however, no such grant of possession or use shall affect title to the vehicle.*

5. Requiring that the ~~allegedly abusing person~~ *respondent* provide suitable alternative housing for the petitioner and any other family or household member, where appropriate.

B. A copy of an ~~ex parte~~ *a preliminary protective order of protection* shall be served as soon as possible on the ~~allegedly abusing person~~ *respondent* in person as provided in § 16.1-264. *As soon as practicable after the order is entered, the clerk shall provide a copy to the petitioner, and information regarding the date and time of service shall be made available to the petitioner.* The preliminary order shall specify a date for the full hearing; ~~which.~~ *The hearing shall be held within fifteen days of the issuance of the preliminary order.* The order shall further specify that the ~~person served~~ *respondent* may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of service *of the preliminary protective order*, the clerk shall certify and forward forthwith a copy of the order to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be certified, forwarded and entered in the system as described above.

C. The preliminary order is effective upon personal service on the ~~allegedly abusing person~~ *respondent.* ~~Any~~ *Except as otherwise provided in § 16.1-253.2,* a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue ~~an order of protection~~ *a protective order* pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

§ 16.1-253.2. Violation of provisions of protective orders; penalty.

552 In addition to any other penalty provided by law, any person who violates any provision of a  
553 protective order issued pursuant to §§ 16.1-253, 16.1-253.1, *16.1-253.4*, 16.1-278.14, ~~or § 16.1-279.1 or~~  
554 *§ 20-103*, which prohibits such person from going or remaining upon land, buildings or premises or  
555 from further acts of family abuse, or which prohibits contacts between the respondent and his or her  
556 family or household member as the court deems appropriate shall be guilty of a Class 1 misdemeanor.  
557 *Upon conviction, the person shall be sentenced to a term of confinement and in no case shall the entire*  
558 *term imposed be suspended.*

559 § 16.1-253.4. Emergency protective orders authorized in cases of family abuse.

560 A. ~~Any~~ *In order to protect the health and safety of any person, a judge of a circuit court, general*  
561 *district court, juvenile and domestic relations district court or magistrate may issue a written or verbal ex*  
562 *parte emergency protective order pursuant to this section.*

563 B. When a law-enforcement officer *or an allegedly abused person* asserts under oath to a judge or  
564 magistrate, and on that assertion or other evidence the judge or magistrate finds reasonable grounds to  
565 believe that (i) the respondent has committed ~~assault and battery~~ *against a family or household member*  
566 *abuse* and (ii) there is probable danger of a further such offense against a family or household member  
567 by the respondent, the judge or magistrate may issue a written or verbal ex parte emergency protective  
568 order imposing one or more of the following conditions on the respondent:

569 1. ~~Prohibition against further~~ *Prohibiting acts in violation of § 18.2-57.2 family abuse ;*

570 2. ~~Prohibition of~~ *Prohibiting such contacts between the parties by the respondent with family or*  
571 *household members as the judge or magistrate deems appropriate necessary to protect the safety of such*  
572 *persons; and*

573 3. *Granting the family or household member possession of the premises occupied by the parties to*  
574 *the exclusion of the respondent; provided however, no such grant of possession shall affect title to any*  
575 *real or personal property; ; and*

576 4. *Granting the petitioner possession or use of a motor vehicle owned by the parties or solely by the*  
577 *respondent, to the exclusion of the respondent, and the court may require that during the term of the*  
578 *order the respondent shall be solely responsible for compliance with the requirements of the laws of this*  
579 *Commonwealth governing insurance for motor vehicles; however, no such grant shall affect title to the*  
580 *vehicle.*

581 C. An emergency protective order issued pursuant to this section shall expire not later than *the*  
582 *longer of 5 p.m. on the next business day or seventy-two hours after issuance. The person served may*  
583 *at any time file a motion with the court requesting a hearing to dissolve or modify the order. The*  
584 *hearing on the motion shall be given precedence on the docket of the court.*

585 D. A verbal emergency protective order issued *upon request of a law-enforcement officer* pursuant to  
586 this section shall be reduced to writing, by the law-enforcement officer requesting the order, on a  
587 preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall  
588 include a statement of the grounds for the order asserted by the officer.

589 E. A copy of an emergency protective order issued pursuant to this ~~subsection~~ *section* shall be served  
590 upon the respondent as soon as possible. *As soon as practicable after the order is entered, the clerk*  
591 *shall provide a copy to the petitioner, and information regarding the date and time of service shall be*  
592 *made available to the allegedly abused person.* One copy of the order shall be given to the family or  
593 household member and one copy shall be filed with the written report required by § 19.2-81.3 C. The  
594 original copy shall be forwarded for verification to the judge or magistrate who issued the order and  
595 then filed with the clerk of the juvenile and domestic relations district court within five business days of  
596 the issuance of the order. The clerk shall certify and forward forthwith a copy of the order to the local  
597 police department or sheriff's office which shall, on the date of receipt, enter the name of the person  
598 subject to the order and other appropriate information required by the Department of State Police into  
599 the Virginia crime information network system established and maintained by the Department pursuant  
600 to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the  
601 dissolution or modification order shall also be certified, forwarded and entered in the system as  
602 described above.

603 F. The availability of an emergency protective order shall not be affected by the fact that the family  
604 or household member left the premises to avoid the danger of a ~~violation of § 18.2-57.2 family abuse~~  
605 by the respondent.

606 G. The issuance of an emergency protective order shall not be considered evidence of any  
607 wrongdoing by the respondent.

608 H. ~~Any respondent upon whom an emergency protective order has been served and who violates that~~  
609 *order shall be guilty of a Class 1 misdemeanor.*

610 I. As used in this section, a "law-enforcement officer" means any full-time or part-time employee of  
611 a police department or sheriff's office which is part of or administered by the Commonwealth or any  
612 political subdivision thereof, and who is responsible for the prevention and detection of crime and the  
613 enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are

compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

§ 16.1-253.4. (Delayed effective date) Emergency protective orders authorized in certain cases; penalty.

A. ~~Any~~ *In order to protect the health and safety of any person, a judge of a circuit court, general district court, family court or magistrate may issue a written or verbal ex parte emergency protective order pursuant to this section.*

B. When a law-enforcement officer ~~or an allegedly abused person~~ asserts under oath to a judge or magistrate, and on that assertion or other evidence the judge or magistrate finds reasonable grounds to believe that (i) the respondent has committed ~~assault and battery against a family or household member~~ *abuse* and (ii) there is probable danger of a further such offense against a family or household member by the respondent, the judge or magistrate may issue a written or verbal ex parte emergency protective order imposing one or more of the following conditions on the respondent:

1. ~~Prohibition against further~~ *Prohibiting acts in violation of § 18.2-57.2 family abuse;*

2. ~~Prohibition of~~ *Prohibiting such contacts between the parties by the respondent with family or household members as the judge or magistrate deems appropriate necessary to protect the safety of such persons; and*

3. Granting the family or household member possession of the premises occupied by the parties to the exclusion of the respondent; ~~provided however,~~ no such grant of possession shall affect title to any real or personal property; *and*

4. *Granting the petitioner possession or use of a motor vehicle owned by the parties or solely by the respondent, to the exclusion of the respondent, and the court may require that during the term of the order the respondent shall be solely responsible for compliance with the requirements of the laws of this Commonwealth governing insurance for motor vehicles; however, no such grant of possession or use shall affect title to the vehicle.*

C. An emergency protective order issued pursuant to this section shall expire not later than the longer of 5 p.m. on the next business day *or seventy-two hours after issuance. The person served may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.*

D. A verbal emergency protective order issued *upon request of a law-enforcement officer* pursuant to this section shall be reduced to writing, by the law-enforcement officer requesting the order, on a preprinted form approved and provided by the Supreme Court of Virginia. The completed form shall include a statement of the grounds for the order asserted by the officer.

E. A copy of an emergency protective order issued pursuant to this ~~subsection~~ *section* shall be served upon the respondent as soon as possible. *As soon as practicable after the order is entered, the clerk shall provide a copy to the petitioner and information regarding the date and time of service shall be made available to the allegedly abused person.* One copy of the order shall be given to the family or household member and one copy shall be filed with the written report required by § 19.2-81.3 C. The original copy shall be forwarded for verification to the judge or magistrate who issued the order and then filed with the clerk of the family court within five business days of the issuance of the order. The clerk shall certify and forward forthwith a copy of the order to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be certified, forwarded and entered in the system as described above.

F. The availability of an emergency protective order shall not be affected by the fact that the family or household member left the premises to avoid the danger of a ~~violation of § 18.2-57.2 family abuse~~ by the respondent.

G. The issuance of an emergency protective order shall not be considered evidence of any wrongdoing by the respondent.

H. ~~Any respondent upon whom an emergency protective order has been served and who violates that order shall be guilty of a Class 1 misdemeanor.~~

I. As used in this section, a "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

§ 16.1-278.14. Criminal jurisdiction; protective orders; family offenses.

In cases involving the violation of any law, regulation or ordinance for the education, protection or

care of children or involving offenses committed by one ~~spouse~~ *family or household member* against another, the juvenile court or the circuit court may impose a penalty prescribed by applicable sections of the Code. ~~However, in cases involving offenses committed by one family or household member against another, the court and~~ may impose conditions and limitations upon the abusing party ~~or, with his or her consent, the family or household member in an effort to effect the reconciliation and rehabilitation of the parties to protect the health and safety of family or household members,~~ including, but not limited to, ~~an a protective order of protection~~ as provided in § 16.1-279.1, treatment and counseling for the abusing person and payment by the defendant for crisis shelter care for the complaining family or household member.

§ 16.1-278.14. (Delayed effective date) Criminal jurisdiction; protective orders; family offenses.

In cases involving the violation of any law, regulation or ordinance for the education, protection or care of children or involving offenses committed by one ~~spouse~~ *family or household member* against another, the family court or the circuit court may impose a penalty prescribed by applicable sections of the Code. ~~However, in cases involving offenses committed by one family or household member against another, the court and~~ may impose conditions and limitations upon the abusing party ~~or, with his or her consent, the family or household member in an effort to effect the reconciliation and rehabilitation of the parties to protect the health and safety of family or household members,~~ including, but not limited to, ~~an a protective order of protection~~ as provided in § 16.1-279.1, treatment and counseling for the abusing person and payment by the defendant for crisis shelter care for the complaining family or household member.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, the court may issue ~~an a protective order of protection~~ to protect the health and safety of the petitioner and ~~to effect the rehabilitation of the abusing person and reconciliation of the parties as the court deems appropriate~~ *family or household members of the petitioner.* ~~An A protective order of protection~~ issued under this section may include any one or more of the following conditions to be imposed on the ~~abusing person respondent~~:

1. ~~Prohibition of further~~ *Prohibiting* acts of family abuse;

2. ~~Prohibition of~~ *Prohibiting* such contacts ~~between the parties by the respondent with the petitioner or family or household members of the petitioner as the court deems appropriate~~ *necessary for the health and safety of such persons;*

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the ~~abusing person respondent~~; however, no such grant of possession shall affect title to any real or personal property;

4. *Granting the petitioner possession or use of a motor vehicle owned by the parties or solely by the respondent, to the exclusion of the respondent, and the court may require that during the term of the order the respondent shall be solely responsible for compliance with the requirements of the laws of this Commonwealth governing insurance for motor vehicles; however, no such grant of possession or use shall affect title to the vehicle.*

45. Requiring that the ~~abusing person respondent~~ provide suitable alternative housing for the petitioner; and, if appropriate, any other family or household member;

56. Ordering the ~~petitioner, with his or her consent, or the abusing person respondent~~ to participate in treatment, counseling or other programs ~~designed for the rehabilitation and reconciliation of the parties as the court deems appropriate;~~ and

67. Any other relief necessary for the protection of the petitioner and ~~minor children~~ *family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.*

B. ~~The protective order of protection shall be issued for a specified period not to exceed one year two years unless issued pursuant to § 18.2-60.3. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order.~~ The clerk shall certify and *as soon as possible* forward ~~forthwith~~ a copy of the order to the local police department or sheriff's office which shall, on the date of receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia crime information network system established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be certified, forwarded and entered in the system as described above.

C. ~~Any Except as otherwise provided in § 16.1-253.2, a violation of an a protective order of protection~~ issued under this section shall constitute contempt of court.

D. The court may assess costs and attorneys' fees against either party regardless of whether ~~an a protective order of protection~~ has been issued as a result of a full hearing.

E. *Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order.*

§ 16.1-296. Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken within ten days from the entry of a final judgment, order or conviction. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within thirty days from entry of a final order or judgment. ~~An~~ A protective order of protection issued pursuant to § 16.1-279.1 in a case of ~~spouse~~ family abuse is a final order from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall ~~forthwith~~ as soon as possible transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of twelve persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or § 16.1-273.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within ninety days of the perfecting of the appeal.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall conform to the equity practice where evidence is heard ore tenus; however, an issue out of chancery may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts, but shall otherwise be docketed and processed as other civil cases.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed ~~unless and~~ until the party applying for the same or someone for him ~~shall give~~ gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. An appeal will not be perfected unless such appeal bond as may be required is filed within thirty days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

798 J. In any case which has been referred or transferred from a circuit court to a juvenile court and an  
799 appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit  
800 court in the same locality as the juvenile court to which the case had been referred or transferred.

801 § 16.1-296.2. (Delayed effective date) Appeals to court of appeals.

802 From any final order or judgment of the family court in any case other than those specified in  
803 subsection A of § 16.1-296, an appeal may be taken to the Court of Appeals as provided in  
804 § 17-116.05:5. The provisions of Title 8.01 and Title 20 and the Rules of the Supreme Court of Virginia  
805 governing appeals in suits in equity shall apply to appeals made pursuant to this section.

806 Any order of protection issued pursuant to § 16.1-279.1 in a case of ~~spouse~~ *family* abuse is a final  
807 order from which an appeal may be taken to the Court of Appeals pursuant to this section.

808 A preliminary protective order issued pursuant to § 16.1-253 or an order of protection issued  
809 pursuant to § 16.1-279.1 shall not be suspended during the pendency of an appeal to the Court of  
810 Appeals or a subsequent petition for appeal to the Supreme Court or writ of error, unless so ordered by  
811 the judge of a family court or directed in a writ of supersedeas by the Court of Appeals or the Supreme  
812 Court.

813 § 16.1-298. Effect of petition for or pendency of appeal; bail.

814 A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not  
815 suspend any judgment, order or decree of the juvenile court nor operate to discharge any child  
816 concerned or involved in the case from the custody of the court or other person, institution or agency to  
817 which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a  
818 circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a  
819 judge or justice thereof.

820 B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the  
821 pendency of an appeal or writ of error:

822 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8,  
823 9, 10, 12, 14, or 15 of § 16.1-278.8.

824 2. In cases involving a child and any local ordinance.

825 3. In cases involving any person over the age of eighteen years.

826 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a  
827 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order  
828 disposing of a motion to reconsider relating to participation in continuing programs pursuant to  
829 § 16.1-289.1 or (iii) ~~an a protective order of protection~~ in cases of ~~spouse~~ *family* abuse issued pursuant  
830 to § 16.1-279.1 unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by  
831 the Court of Appeals or the Supreme Court.

832 C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by  
833 order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

834 § 18.2-60.3. Stalking; penalty.

835 A. Any person who on more than one occasion engages in conduct directed at another person with  
836 the intent to place, or with the knowledge that the conduct places, that other person in reasonable fear of  
837 death, criminal sexual assault, or bodily injury to that other person or to that other person's ~~spouse or~~  
838 ~~child~~ *family or household member* shall be guilty of a Class 2 misdemeanor.

839 B. However, any person who is convicted of a first offense in violation of subsection A when, at the  
840 time of the offense, there was in effect any order prohibiting contact between the defendant and the  
841 victim or the victim's ~~spouse or child~~ *family or household member*, shall be guilty of a Class 1  
842 misdemeanor.

843 C. A second conviction occurring within five years of a first conviction for an offense under this  
844 section or for a similar offense under the law of any other jurisdiction shall be a Class 1 misdemeanor.  
845 A third or subsequent conviction occurring within five years of a conviction for an offense under this  
846 section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony.

847 D. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions  
848 within the Commonwealth wherein the conduct described in subsection A occurred, if the person  
849 engaged in that conduct on at least one occasion in the jurisdiction where the person is tried.

850 E. Upon finding a person guilty under this section, the court shall, in addition to the sentence  
851 imposed, issue an order prohibiting contact between the defendant and the victim or the victim's ~~spouse~~  
852 ~~or child~~ *family or household member*.

853 F. The Department of Corrections, sheriff or regional jail director shall give notice prior to the  
854 release from a state correctional facility or a local or regional jail of any person incarcerated upon  
855 conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or  
856 to any person designated in writing by the victim. The notice shall be given at least fifteen days prior to  
857 release of a person sentenced to a term of incarceration of more than thirty days or, if the person was  
858 sentenced to a term of incarceration of at least forty-eight hours but no more than thirty days,  
859 twenty-four hours prior to release. If the person escapes, notice shall be given as soon as practicable

following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

*G. As used in this section the term "family or household member" shall have the same meaning as provided in § 16.1-228.*

§ 18.2-308.1:4. Purchase or transportation of firearm by persons subject to protective orders; penalty.

A. It shall be unlawful for any person who is subject to (i) a protective order entered pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, or § 16.1-279.1 ~~or to~~, (ii) a *pendente lite* order issued pursuant to § 20-103 which places restrictions on the travel, association or place of abode of a person or restricts contacts between the parties or (iii) an order entered pursuant to subsection E of § 18.2-60.3 to purchase or transport any firearm while the order is in effect. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any firearm purchased or transported in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in § 18.2-310.

§ 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under subdivision A 3 or L of § 16.1-241, the court having jurisdiction of the matter may, at any time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the petitioning spouse, including an order that the other spouse provide health care coverage for the petitioning spouse, unless it is shown that such coverage cannot be obtained, (ii) to enable such spouse to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties, including an order that either party provide health care coverage for the children, (v) to provide support for any child of the parties under the age of nineteen who is a full-time high school student and who otherwise meets the requirements set forth in § 20-107.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit or (viii) to compel either spouse to give security to abide such decree. In addition to the authority hereinabove, the court may order parties with a minor child or children to attend educational seminars and other like programs conducted by a qualified person or organization approved by the court, on the effects of the separation or divorce on minor children, provided that no fee in excess of fifty dollars may be charged for participation in any such program. No statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding.

B. ~~Upon~~ *In addition to the terms provided in subsection A, upon* a showing by a party of reasonable apprehension of physical harm to that party by such party's ~~spouse~~ *family or household member as that term is defined in § 16.1-228*, and consistent with rules of the Supreme Court of Virginia, the court may enter an order excluding that party's ~~spouse~~ *family or household member* from the jointly owned or jointly rented family dwelling. In any case where an order is entered under this paragraph, pursuant to an ex parte hearing, the order shall not exclude a ~~spouse~~ *family or household member* from the family dwelling for a period in excess of fifteen days from the date the order is served, in person, upon the ~~spouse~~ *person* so excluded. The order may provide for an extension of time beyond the fifteen days, to become effective automatically. The ~~spouse~~ *person* served may at any time file a written motion in the clerk's office requesting a hearing to dissolve or modify the order. Nothing in this section shall be construed to prohibit the court from extending an order entered under this paragraph for such longer period of time as is deemed appropriate, after a hearing on notice to the parties.

C. In cases other than those for divorce in which a custody or visitation arrangement for a minor child is sought, the court may enter an order providing for custody, visitation or maintenance pending the suit as provided in subsection A. The order shall be directed to either parent or any person with a legitimate interest who is a party to the suit.

D. Orders entered pursuant to this section which provide for custody or visitation arrangements pending the suit shall be made in accordance with the standards set out in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20. *Orders entered pursuant to this section which place restrictions on the travel,*

921 *association or place of abode or restrict contacts between the parties shall be certified by the clerk and*  
922 *forwarded as soon as possible to the local police department or sheriff's office which shall, on the date*  
923 *of receipt, enter the name of the person subject to the order and other appropriate information required*  
924 *by the Department of State Police into the Virginia crime information network system established and*  
925 *maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the*  
926 *order is later dissolved or modified, a copy of the dissolution or modification shall also be certified,*  
927 *forwarded and entered in the system as described above.*

928 E. An order entered pursuant to this section shall have no presumptive effect and shall not be  
929 determinative when adjudicating the underlying cause.